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Supreme Court, U.S.
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JUL 25 1990
JOSEPH F. SPANIOL, JR.
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NO. 89-1726

IN THE SUPREME COURT OF THE UNITED STATES

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SUPREME COURT, U.S.

MISSISSIPPI EMPLOYMENT SECURITY COMMISSION
Petitioner

vs

DEBORAH MCGLOTHIN
Respondent

REPLY TO PETITION FOR WRIT OF CERTIORARI

Cynthia Ann Stewart
Counsel of Record
P. O. Box 22909
Jackson, Mississippi 39225-2909
(601) 948-7777

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1989

NO. 89-1726

MISSISSIPPI EMPLOYMENT SECURITY COMMISSION PETITIONER

VS.

DEBORAH MCGLOTHIN RESPONDENT

REPLY TO PETITION FOR WRIT OF CERTIORARI

The decision of the Mississippi Supreme Court falls squarely within the principles set forth in Frazee v. Illinois Department of Employment Security, 489 U.S. ___, 109 S.Ct. 1514, 103 L.Ed.2d 914 (1989); Hobbie v. Unemployment Compensation Commission of Florida, 480 U.S. 136, 107 S.Ct. 1046, 94 L.Ed.2d 190 (1987); Thomas v. Review Board of Indiana Employment Security Commission, 450 U.S. 707, 101 S.Ct. 1425, 67 L.Ed.2d 624 (1981); and Sherbert v. Verner, 374 U.S. 398, 83 S.Ct. 1790, 10 L.Ed.2d 965 (1963). Petitioner would compel this Court to establish religion by excluding from that term the religious customs of individuals whose practices differ significantly from those of the majority of citizens. This is anathema to the First Amendment. This Court specifically addressed this point in noting that the determination of what is religious does

> not .... turn upon a judicial perception of the particular belief or practice in question; religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment Protection.

Thomas v. Review Board of Indiana Employment Security Commission, 450 U.S. at 714, 67 L.Ed.2d at 631.

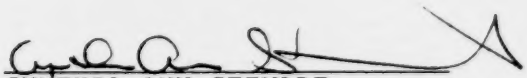
Employment Div., Dept., of Human Resources v. Smith, ___ U.S.

___, 110 S.Ct. 1595 (1990) recently reiterated the principles applicable to this case. In permitting the denial of unemployment benefits for employment termination due to illegal use of peyote, for religious reasons, the Court refused to adopt a holding necessitating constant judicial determination of what is "religious." The Court reaffirmed that "'[i]t is not within the judicial ken to question the centrality of particular beliefs or practices to a faith, or the validity of particualr litigants' interpretation of those creeds." Hernandez v. Commissioner, 490 U.S. ___, ___, 109 S.Ct. ___, ___ (1990)." Petitioner would, here, have the Court so judge the sincerity of Respondent's religious practices and beliefs.

The Mississippi Employment Security Commission, the Circuit Court of the First Judicial District of Hinds County, Mississippi, and the Supreme Court of Mississippi consistently held and upheld the wearing of headdress by Deborah McGlothin to be an expression and practice of her religious beliefs. As such, it is entitled to the highest protection under the First Amendment. The Petition for Writ of Certiorari should therefore be denied.

Respectfully submitted,

DEBORAH MCGLOTHIN

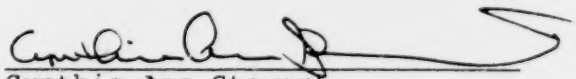
BY: 

CYNTHIA ANN STEWART
Attorney for Respondent
P. O. Box 22909
Jackson, Mississippi 39225-2909
(601) 948-7777

ACKNOWLEDGEMENT OF SERVICE

I hereby acknowledge that I mailed, by U. S. Mail, postage prepaid, a true and correct copy of the above and foregoing Reply to the Petition for Writ of Certiorari to Hon. Fred Lotterhos, P.). Box 1699, Jackson, Mississippi 39215-1699 and the Jackson Public Schools, P.O. Box 2338, Jackson, Mississippi 39205.

This the 24th day of July, 1990.



Cynthia Ann Stewart

Supreme Court of the United States

No. 89-1726

Mississippi Employment Security Commission,

Petitioner

v.

Deborah McClothin

ON PETITION FOR WRIT OF CERTIORARI to the Supreme Court of Mississippi, No. 07-59080.

ON CONSIDERATION of the petition for a writ of certiorari herein to the Supreme Court of Mississippi.

IT IS ORDERED by this Court that the said petition be, and the same is hereby, denied.

October 1, 1990

A true copy JOSEPH F. SPANIOL, JR.
Test:
Clerk of the Supreme Court of the United States
By _____ Deputy

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SUPREME COURT, U.S.

APPEARANCE FORM

SUPREME COURT OF THE UNITED STATES

No. 89-1726

vs.

Miss. Employment Security Commission (Petitioner) Deborah McGlothin (Respondent)

The Clerk will enter my appearance as Counsel of Record for Deborah McGlothin

(Please list names of all parties represented)

who IN THIS COURT is ☐ Petitioner(s) ☒ Respondent(s) ☐ Amicus Curiae

I certify that I am a member of the Bar of the Supreme Court of the United States:

Signature _____

(Type or print) Name Cynthia Ann Stewart Not member

☐ Mr. ☐ Ms. ☐ Mrs. ☐ Miss

Firm Royals Hartung & Davis

Address P. O. Box 22909

City & State Jackson, Mississippi Zip 39225-2909

Phone (601) 948-7777

Rule 9

APPEARANCE OF COUNSEL

.1. An attorney seeking to file a pleading, motion, or other paper in this Court in a representative capacity must first be admitted to practice before this Court pursuant to Rule 5. The attorney whose name, address, and telephone number appear on the cover of a document being filed will be deemed counsel of record, and a separate notice of appearance need not be filed. If the name of more than one attorney is shown on the cover of the document, the attorney who is counsel of record must be clearly identified.

.2. An attorney representing a party who will not be filing a document must enter a separate notice of appearance as counsel of record indicating the name of the party represented. If an attorney is to be substituted as counsel of record in a particular case, a separate notice of appearance must also be entered.

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MISSISSIPPI EMPLOYMENT SECURITY COMMISSION,
Petitioner,

v.

DEBORAH MCGLOTHIN,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF MISSISSIPPI

CERTIFICATE OF SERVICE

I hereby certify that the above captioned Petition for a Writ of Certiorari to the Supreme Court of Mississippi was mailed this 8th day of May, 1990 by first-class mail, postage prepaid, to the following counsel:

Honorable Cynthia Stewart
Attorney at Law
c/o MS Capitol Defense Resource Center
P.O. Box 510
Jackson, MS 39205

James E Lyons
James E. Lyons

Washington, D. C.
Subscribed and sworn to before me
this 8th day of MAY, 1990
Notary Public D. C.

My Commission Expires October 31, 1994